

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
April 3, 2006

**D045682      People v. Markley**

The judgment imposing sentences under both sections 646.9, subdivision (a) and 646.9, subdivision (c)(2) is reversed and the matter is remanded for resentencing under section 646.9, subdivision (c)(2) only. In all other respects, the judgment is affirmed. CERTIFIED FOR PUBLICATION. Aaron, J.; We Concur: McConnell, P.J., Irion, J.

**D046161      Holmes v. McGuire**

The petition for rehearing is denied.

**D046388      People v. Babine**

The judgment is affirmed. Huffman, Acting P.J.; We Concur: Nares, J., Irion, J.

**D047024      People v. Casas**

The judgment is affirmed. O'Rourke, Acting P.J.; We Concur: Aaron, J., Irion, J.

**D045789      Warren et al. v. Sharabi**

The court's November 2004 order is reversed insofar as it granted the plaintiffs their post judgment attorney fees and is otherwise affirmed in its entirety. The court's February 2005 order allowing the plaintiffs to proceed against the bond is also affirmed. The parties are to bear their own costs on appeal. McIntyre, J.; We Concur: Nares, Acting P.J., O'Rourke, J.

**D048068      Dominic V. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorney for petitioner Dominic V. has notified the court that a petition for writ of mandate under California Rules of Court, rules 38.1 and 1436.5 will not be filed as there are no viable issues for writ review. The case is dismissed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
April 4, 2006

**D047039      People v. Alamanza**

The order is affirmed. Benke, J.; We Concur: McConnell, P.J., Nares, J.

**D046813      People v. Harnage**

The judgment is affirmed. Irion, J.; We Concur: Huffman, Acting P.J., McIntyre, J.

**D046264      Loucks et al. v. Jacobs**

The judgment is affirmed. McDonald, J.; We Concur: McConnell, P.J., Aaron, J.

**D046254      People v. Nguyen**

Nguyen's conviction of assault with a deadly weapon is reversed. In all other respects, the judgment is affirmed. The matter is remanded for resentencing. McDonald, Acting P.J.; We Concur: McIntyre, J., Aaron, J.

**D045744      In re Marriage of Welker**

The judgment and orders are reversed in part with directions to the trial court to allow the response to be filed forthwith and to conduct further appropriate proceedings on the division of property issues, the PMA, and the attorney fees issues, in light of the allegations of the amended petition and the response to be filed. Both parties are to pay their own costs on appeal. Huffman, Acting P.J.; We Concur: McIntyre, J., Aaron, J.

**D047712      People v. Arriaga**

Upon filing an abandonment of appeal, the appeal is dismissed and the remittitur is ordered to issue immediately.

**D046577      In re J.N., a Juvenile**

The judgment is affirmed. Aaron, J.; We Concur: Huffman, Acting P.J., Haller, J.

**D047178      People v. Garcia**

The judgment is affirmed. McDonald, Acting P.J.; We Concur: Aaron, J., Irion, J.

**D048062      Lisa M. v. Superior Court of San Diego County/San Diego County Health  
and Human Services Agency**

No timely petition for writ relief has been filed. The notice of intent is deemed to be abandoned. The case is dismissed.

**D048018      Felina D. v. Superior Court of San Diego County/San Diego County Health  
and Human Services Agency**

No timely petition for writ relief has been filed. The notice of intent is deemed to be abandoned. The case is dismissed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
April 4, 2006 (Continued)

**D047287      In re A. H. et al., Juveniles**

Respondent's request for dismissal of the appeal as moot is granted. The appeal is dismissed.

**D046025      P.S. Investment Company, LLC v. Wohlfeil et al.**

**D046463      P.S. Investment Company, LLC v. Wohlfeil et al.**

Upon written request filed by appellants, the appeals are dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 20(c)(2)). Each party to bear own costs on appeal.

**D048312      In re Leihua T., a Juvenile**

Because there is a reference to a Welfare and Institutions Code section 366.26 hearing, the matter will proceed by petition for writ review, not appeal. (Anthony D. v. Superior Court (1998) 63 Cal.App.4th 149). All issues, writ and appellate, from the March 20, 2006 hearing should be included in the petition, assigned Court of Appeal case number D048311. The appeal is accordingly dismissed.

**D048086      Maria F. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorney for petitioner Maria F. has notified the court that a petition for writ of mandate under California Rules of Court, rules 38.1 and 1436.5 will not be filed as there are no viable issues for writ review. The case as to Maria F. is dismissed. Real Party in Interest's response to Joaquin H.'s Petition for Writ of Mandate and/or Prohibition is due on or before April 18, 2006.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
April 5, 2006

**D046791      In re Marriage of Frost and Neuendorf**

The portion of the order awarding Rogers \$5,500 in attorney fees and costs is reversed. In all other respects, the order is affirmed. Parties to bear their own costs on appeal. Haller, Acting P.J.; We Concur: McIntyre, J., Aaron, J.

**D047389      People v. Garcia**

The judgment is affirmed. Irion, J.; We Concur: Nares, Acting, P.J., O'Rourke.

**D047494      In re Megan D. et al., Juveniles**

The orders are affirmed. McDonald, J.; We Concur: Haller, Acting P.J., Irion, J.

**D047475      In re Alysa F. et al., Juveniles**

The order is affirmed. McConnell, P.J.; We Concur: O'Rourke, J., Irion, J.

**D045684      People v. Rodriguez**

The judgment is affirmed. McIntyre, J.; We Concur: McConnell, P.J., Irion, J.

**D047753      In re S.M. et al., Juveniles**

The appeal is dismissed. Aaron, J.; We Concur: McConnell, P.J., Haller, J.

**D047638      Gramatikova v. Diversa Corporation**

Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately.

**D045444      Sinha v. The Regents of the University of California**

It is ordered that the opinion filed on March 6, 2006, is modified. There is no change in judgment. The petition for rehearing is denied.

**D047851      In re Kenneth B., a Juvenile**

The appeals are dismissed. Irion, J.; We Concur: McDonald, Acting P.J., McIntyre, J.

**D046178      People v. Odom**

The judgment is affirmed. Huffman, J.; We Concur: Benke, Acting P.J., McDonald, J.

**D047938      Spatafore v. Superior Court of San Diego County/Mayson HWA**

The petition is denied.

**D048317      McClenty v. United States Post Office**

The appeal is dismissed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
April 6, 2006

**D046316      D.S.O. Leasing v. Eco-Air Products Inc., et al.**

The judgment is affirmed. Upon remand the trial court is directed to determine DSO's entitlement to attorney fees incurred on appeal, as well as the amount of fees, if any, to be awarded. Nares, J.; We Concur: McConnell, P.J., Benke, J.

**D046783      Zenith Insurance Company v. Workers Compensation Appeals Board/Pain Intervention Therapy of San Diego et al.**

The opinion filed March 20, 2006 is ordered certified for publication.

**D047783      Schaffer v. Workers Compensation Appeals Board/Southern California Edison Company**

The petition is denied.

**D046253      People v. Bourguignan**

The judgment is affirmed. McDonald, J.; We Concur: McConnell, P.J., Aaron, J.

Court convened at 10 a.m.

Present: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Joan Irion  
Clerk: D. Moore

**D046072      People v. Dunkley**

Cause called on merits. William Flenniken, Esq. argued for appellant. Michael Gower, Certified Law Student argued for respondent. Mr. Flenniken replied. Cause submitted.

Court recessed at 10:20 a.m. to change panel members. New panel members: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Terry O'Rourke and Joan Irion

**D046173      Mills et al. v. Paine Webber et al.**

Cause called on merits. David Lawrence Kahn, Esq. argued for appellant. Kenneth S. Klein, Esq. argued for respondent. Mr. Kahn replied. Cause submitted.

Court adjourned at 10:44 a.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
April 6, 2006 (Continued)

**D045908      Marina Cortez, Inc. v. Wilkes et al.**

The court is ordered to vacate the summary judgment, and enter the following orders. First, the court shall enter an order denying defendants' summary judgment motion as to the third cause of action ("Negligence") and fourth cause of action ("Breach of Duties and Standards of Care Owed Plaintiff") in Marina Cortez's amended complaint. Second, the court shall enter an order granting summary adjudication on the first cause of action ("Declaratory Relief"), second cause of action ("Quiet Title"), and fifth cause of action ("Deceit, Misrepresentation, and Fraud"). Each party to bear its own costs on appeal. Haller, Acting P.J.; We Concur: McDonald, J., McIntyre, J.

**D045669      In re the Conservatorship of Ben C.**

The petition for rehearing is denied.

**D048170      People v. Callender**

The notice of appeal, appellant's letter brief filed on March 21, 2006, and respondent's letter brief filed on April 3, 2006, have been read and considered by Presiding Justice McConnell and Associate Justices Benke and Nares. The appeal is dismissed.

**D048164      Samuel D. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorney for petitioner Samuel D. has notified the court that a petition for writ of mandate under California Rules of Court, Rules 38.1 and 1436.5 will not be filed as there are no viable issues for writ review. The case is dismissed.

**D047937      People v. Filippone**

The petition is denied without prejudice to filing a petition for writ of error coram nobis in superior court.

**D047913      In re Marriage of Bacher**

**D048049      In re Marriage of Bacher**

On its own motion, the court consolidates the above-entitled appeals. All documents are to be filed under case no. D048049.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
April 7, 2006

**D046331      In re Marriage of Lozano**  
Respondent's petition for rehearing is denied.

**D045516      People v. Becker**  
The judgment is affirmed. McConnell, P.J.; We Concur: Benke, J., Nares, J.

**D047493      In re Sebastian C. et al., Juveniles**  
The orders are affirmed. Haller, J.; We Concur: McConnell, P.J., Nares, J.

**D046103      Rancho Santa Fe Association v. Dolan-King**  
The request for publication of the opinion is denied.

**D046357      Greco v. Varsity Contractors Inc., et al.**  
The judgment is affirmed. Aaron, J.; We Concur: Huffman, Acting P.J., Haller, J.

**D045578      Durbin v. Parinello, Inc.**  
The judgment of the trial court as to defendant Parinello, Inc. is reversed and the case is remanded for retrial, or other proceedings consistent with this opinion. The order awarding attorney fees is reversed. Parties to bear their own costs on appeal. Aaron, J.; We Concur: Nares, Acting P.J., Haller, J.

**D048351      Alsayad v. The Superior Court of San Diego County/People**  
The petition is denied.

**D045438      North Coast Women's Care Medical Group Inc., et al. v. Superior Court of San Diego County/Benitez**  
The petition for rehearing filed by real party in interest is denied.

Court convened at 9:30 a.m. at Southwest High School, 2001 Ocotillo Drive, El Centro, California.

Present: The Honorable Judith McConnell, Presiding Justice, and the Honorable Associate Justices Judith Haller and Joan Irion.

Clerk: Brandon Henson

**D046130      People v. Hamo**  
Cause called on merits. Anita Jog, Esq. argued for appellant. Christopher Beesley, Deputy Attorney General argued for respondent. Ms. Jog replied. Cause submitted.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
April 7, 2006 (Continued)

Court recessed at 10:02 a.m. to change panel members. New panel members: The Honorable Judith McConnell, Presiding Justice and the Honorable Associate Justices Gilbert Nares and Cynthia Aaron.

**D045453      People v. Brown**

Cause called on merits. Howard Cohen, Esq. argued for appellant. Lynn McGinnis, Deputy Attorney General argued for respondent. Mr. Cohen replied. Cause submitted.